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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/163,977 09/30/98 PARK

J 051897

EXAMINER

WM02/0117

STAAS & HALSEY  
700 ELEVENTH STREET NW  
SUITE 500  
WASHINGTON DC 20001

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ART UNIT	PAPER NUMBER
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2614

DATE MAILED:

01/17/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Advisory Action

Application No.  
09/163,977

Applicant(s)  
Yu-Ha PARK

Examiner  
Trang U. Tran

Group Art Unit  
2614



## THE PERIOD FOR RESPONSE: [check only a) or b)]

- a) ☒ expires 4 months from the mailing date of the final rejection.
- b) ☐ expires either three months from the mailing date of the final rejection, or on the mailing date of this Advisory Action, whichever is later. In no event, however, will the statutory period for the response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

- ☐ Appellant's Brief is due two months from the date of the Notice of Appeal filed on \_\_\_\_\_ (or within any period for response set forth above, whichever is later). See 37 CFR 1.191(d) and 37 CFR 1.192(a).

Applicant's response to the final rejection, filed on Dec 29, 2000 has been considered with the following effect, but is NOT deemed to place the application in condition for allowance:

- ☒ The proposed amendment(s):
- ☒ will be entered upon filing of a Notice of Appeal and an Appeal Brief.
- ☐ will not be entered because:
- ☐ they raise new issues that would require further consideration and/or search. (See note below).
  - ☐ they raise the issue of new matter. (See note below).
  - ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
  - ☐ they present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

- ☐ Applicant's response has overcome the following rejection(s): \_\_\_\_\_

- ☐ Newly proposed or amended claims \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment cancelling the non-allowable claims.

- ☒ The affidavit, exhibit or request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See attachment.

- ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

- ☒ For purposes of Appeal, the status of the claims is as follows (see attached written explanation, if any):

Claims allowed: \_\_\_\_\_

Claims objected to: \_\_\_\_\_

Claims rejected: 1-29

- ☐ The proposed drawing correction filed on \_\_\_\_\_ ☐ has ☐ has not been approved by the Examiner.
- ☐ Note the attached Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Other

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*Response to Arguments*

1. Applicant's arguments filed Dec. 29, 2000 have been fully considered but they are not persuasive.

In re pages 9-10, applicant argues that Yuen does not disclose or suggest "acquiring the program guide information for each channel by scanning accessible channels while the received program is not displayed" as recited in claim 1.

In response, the examiner respectfully disagrees. Yuen discloses in col. 22, lines 38-47 that **"in step 902 a detector detects whether or not a television monitor is On or OFF, which indicates whether the TV is being viewed", "if in step 904 it is determined that the TV monitor is OFF then in step 906 it is determined whether it is time for accessing a guide from a television signal", and "if the television monitor is not OFF or if it is not time for accessing a guide, the steps 902 through 906 are repeated until the television monitor is OFF and a time for accessing the guide has arrived"** and in col. 22, lines 51-53 that **"the guide and guide data can be embedded in the vertical blanking interval or the audio portion of the video signal"**. Since the guide data are transmitted in the VBI lines of video signal, the guide data and the video signal are received at the same time. From the above passages, it is clear that Yuen does indeed disclose the claimed "acquiring the program guide information for each channel by scanning accessible channels while the received program is not displayed" as required by claim 1.

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In re pages 10-11, applicant argues that, contrary to the assertion of the Examiner, Yuen does not disclose or suggest “acquiring program guide information of accessible channels in response to the program guide command” as recited in claim 3 because no disclosure in Yuen that the program guide command also stimulates the device to acquire fresh guide information so as to update the guide during display.

In response, the Examiner respectfully disagrees. It is noted that the alleged **“update the guide during display”** is not recited in claim 3. The specification is not the measure of invention. Therefore, limitations contained therein can not be read into the claims for the purpose of avoiding the prior art. In re Sporck, 55 CCPA 743, 382 F.2d 924, 155 USPQ 687 (1968). Yuen discloses in col. 22, lines 43-47 that **“if the television monitor is not OFF or if it is not time for accessing a guide, then steps 902 through 906 are repeated until the television monitor is OFF and a time for accessing the guide has arrived”**. When the television monitor is OFF and a time for accessing the guide has arrived, the controller 750 generates **the program guide command to acquire program guide information of accessible channels**. Thus, the claimed “acquiring program guide information of accessible channels in response to the program guide command” is clearly taught or suggested in Yuen.

In re pages 11-12, applicant also argues that, contrary to the assertion of the Examiner, Yuen does not disclose or suggest “acquiring program guide information for each channel by searching for accessible channels in a background operation while the program list is referred to”, “rewriting a program list on the basis of the stored program guide information” and “displaying

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the rewritten program list” as recited in claim 12 because Yuen discloses the writing and displaying of a guide in response to a program guide command, but does not disclose the acquiring updated guide information while the guide is displayed.

In response, the Examiner respectfully disagrees. It is noted that the alleged **“acquiring updated guide information while the guide is displayed”** is not recited in claim 12. The specification is not the measure of invention. Therefore, limitations contained therein can not be read into the claims for the purpose of avoiding the prior art. In re Sporck, 55 CCPA 743, 382 F.2d 924, 155 USPQ 687 (1968). Yuen discloses in col. 22, lines 33-59 the claimed “acquiring program guide information for each channel by searching for accessible channels in a background operation while the program list is referred to”, in col. 21, lines 18-22 the claimed “rewriting a program list on the basis of the stored program guide information” and in col. 22, lines 1-3 the claimed “displaying the rewritten program list” as required by claim 12.

In re page 12, applicant argues that, contrary to the assertion of the Examiner, Yuen does not disclose or suggest “said microprocessor, in response to the manipulation command input via said key input, ... searches for accessible channels by controlling the tuner in a background operation while a user refers to the program list”.

In response, the Examiner respectfully disagrees. It is noted that the alleged **“, while a guide is being displayed, that the apparatus searches for accessible channels, or that any other similar operation is performed during the display of the guide”** is not recited in claim 19. The specification is not the measure of invention. Therefore, limitations contained

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therein can not be read into the claims for the purpose of avoiding the prior art. In re Sporck, 55 CCPA 743, 382 F.2d 924, 155 USPQ 687 (1968). Yuen discloses in col. 21, lines 5-8 that **“the VCR would compare the time on clock 754 to the preprogrammed times to determine a time at which to begin a search for the television guide and guide data”**. In order to preprogram the times, the times must be enter by a key input. Figs. 22A and 22B of Yuen show the method for accessing a television guide from a television signal of the controller 750. From the above passage and Figs. 22A and 22B, it is clear that the claimed **“said microprocessor, in response to the manipulation command input via said key input, ... searches for accessible channels by controlling the tuner in a background operation while a user refers to the program list”** is anticipated by the controller 750 of Yuen.

In re pages 12-13, applicant further argues that, contrary to the assertion of the Examiner, Yuen does not disclose a apparatus having either **“means for detecting program guide information corresponding to channels in relation to a tuned channel,”** or **“means for searching for accessible channels of the channels based upon a command received, the program guide information, and a relation to the tuned channel”** as recited in claim 28.

In response, the Examiner is respectfully disagrees, Yuen discloses in col. 22, lines 56-59 that **“then in step 911 if the television signal source and channel for accessing the guide have been programmed or stored in the VCR then the switch is switched to the specified television signal source and the channel is tuned to ”**. In order to tune to the programmed or stored television signal source and channel, the current tuned channel must be known by the

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controller 750. Therefore, the claimed “means for detecting program guide information corresponding to channels in relation to a tuned channel,” and “means for searching for accessible channels of the channels based upon a command received, the program guide information, and a relation to the tuned channel” as recited in claim 28 are anticipated by col. 22, lines 56-59 of Yuen.

In re page 13, applicant states that claims 2 and 26 are deemed patentable due at least to their depending from independent claim 1, that claims 5-10 and 27 are deemed patentable due at least to their depending from independent claim 3, that claims 13-15 are deemed patentable due at least to their depending from independent claim 12, that claims 20-23 and 25 are deemed patentable due at least to their depending from independent claim 19, and that claim 29 is deemed patentable due at least to the arguments for the patentability of claim 28.

In response, as discussed above regarding independent claims 1, 3, 12, 19 and 28, Yuen discloses all the features of the independent claims 1, 3, 12, 19 and 28.

In re page 13, applicant states that, assuming *arguendo* that is common knowledge to display a message to a user informing the user to wait, this common knowledge does not cure the above noted deficiencies in Yuen with regard to independent claim 3.

In response, as discussed above regarding claim 3, Yuen does disclose all the features of claim 3.

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In re pages 13-14, applicant argues that, assuming arguendo that Saitoh does disclose the claimed feature, and that the combination of Yuen and Saitoh otherwise proper, the combination does not cure the above noted deficiency with the regard to independent claims 3 and 19.

In response, as discussed above regarding claims 3 and 19, Yuen does disclose all the features of claims 3 and 19.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Trang Tran whose telephone number is (703) 305-0090. The examiner can normally be reached on Monday to Friday from 8:30AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Reinhard J. Eisenzopf, can be reached on (703)305-4711.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-4700.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:**

(703) 308-6306, (for formal communications intended for entry)



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**Or:**

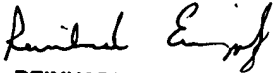
(703) 308-6296 (for informal or draft communications, please label

"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

TT TT

January 15, 2001

  
REINHARD J. EISENZOPF 1-16-01  
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